



February 24, 2012

Via Overnight Mail

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
601 D Street NW, Room 2121
Washington, DC 20579-0001

Re: United States et al. v. Hovnanian Enterprises, Inc.
DOJ Case No. 90-5-1-1-08709
National Compliance Summary Report

To Whom It May Concern:

Pursuant to paragraph 18a of the Consent Decree entered into by the United States and Hovnanian Enterprises, Inc. please find enclosed the National Compliance Summary Report for the period from January 1, 2011 to December 31, 2011.

Sincerely,

A handwritten signature in dark ink, appearing to read "Dean Potter", is written over a light blue horizontal line.

Dean Potter
National Stormwater Compliance Representative

cc: ✓ Lori Kier, Esquire, U.S. EPA Region III
Chuck Schadel, U.S. EPA Region III
Director, Water Enforcement Division, U.S. EPA
Caroline Burnett, Office of the General Counsel, District Department of the Environment
Principal Counsel, Office of the Attorney General, MD Department of the Environment
Chief, Enforcement Division, Compliance Program, MD Department of the Environment
Director, Department of Conservation and Recreation, Commonwealth of Virginia
Elizabeth Andrews, Assistant Attorney General, Commonwealth of Virginia
Michael Zeto, Chief Inspector, WV Department of Environmental Protection
Jennifer Hughes, Esquire, WV Department of Environmental Protection
Michael Discafani, Esquire, Hovnanian Enterprises, Inc.
Jonathan Rinde, Esquire, Manko, Gold, Katcher & Fox, LLP
Ara Hovnanian, CEO, Hovnanian Enterprises, Inc.
Larry Sorsby, Executive Vice President & CFO, Hovnanian Enterprises, Inc.
Tom Pellerito, COO, Hovnanian Enterprises, Inc.
All Group and Division Presidents, Hovnanian Enterprises, Inc.
All Division Stormwater Compliance Representatives, Hovnanian Enterprises, Inc.

K. HOVNANIAN NATIONAL COMPLIANCE SUMMARY REPORT

I. Overview

Pursuant to the requirements of the National Consent Decree, this overview provides a brief and general discussion of the data collected by K. Hovnanian over the time frame of January 1 through December 31, 2011. This is the second National Compliance Summary Report prepared in conformance with the National Consent Decree, and the first to cover an entire calendar year. Overall, the data presented herein demonstrates company-wide compliance with the Clean Water Act, permits issued pursuant to the National Pollution Discharge Elimination System (NPDES), and Consent Decree.

This National Compliance Summary Report addresses over 300 individual sites in all states in which K. Hovnanian operates. The processes developed by K. Hovnanian to assure compliance with the various requirements related to the management of stormwater from construction sites have been developed, implemented and refined during calendar year 2011 and as discussed below, continue to be evaluated and refined to ensure compliance with all requirements at every level of the Company.

As is noted from numerical information provided with this National Compliance Summary Report, there were three sites in 2011 where a NPDES permit was not obtained by K. Hovnanian prior to the initiation of construction activities, and 17 days total when there may have been a discharge of stormwater from any of these three sites prior to obtaining a NPDES permit. (To estimate the number of days of a potential discharge from a site, K. Hovnanian reviewed rainfall data and identified days on which there was ½ inch or greater rainfall. For one of these sites, K. Hovnanian is a “finished lot” purchaser and purchases individual lots from a land developer, who obtains its own NPDES permit to perform the mass grading on the development, and install the road network and utilities, in order to sell “finished lots” to homebuilders like K. Hovnanian. K. Hovnanian obtained its own NPDES permit for the initial finished lots in this particular community, but failed to modify its NPDES permit to include subsequently purchased lots. When the permits were reviewed during an internal spot-check of permits, this oversight was identified and immediately corrected.

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Please also note that K. Hovnanian properly performed and documented over 16,000 inspections of its construction sites in 2011, which represents a greater than 97.5% compliance rate. This compliance rate is an improvement to the percentage of properly performed and documented inspections conducted during the five month reporting period during calendar year 2010. It is believed that there are at least two reasons why a higher percentage of inspections were conducted by K. Hovnanian in 2011 as compared to the reporting period in 2010. First, the formal training programs that K. Hovnanian has conducted as required by the Consent Decree has increased the level of knowledge and awareness that community managers and others have with respect to NPDES permitting requirements. Second, beyond the requirements of the Consent Decree, the constant oversight and regularly-scheduled stormwater compliance meetings conducted by the Corporate Office with all business units keeps compliance with the requirements of the Consent Decree and NPDES permits in sharp focus throughout the year.

Within the small percentage of inspections that were either missed or not properly documented, it appears that many of the “failures” are attributable to the lack of a signature on the inspection form, which K. Hovnanian will address through continued internal training. However, in these cases, inspections were properly conducted and responsive actions taken, if identified.

There were 24 instances during calendar year 2011 where K. Hovnanian failed to perform or document a required Pre-Construction Inspection and Review (“PCIR”). K. Hovnanian investigated each of these instances, and determined that the majority resulted from the PCIR form being signed more than the required ten days from purchase of the Site, despite the fact that the PCIR was conducted, and the form complete (without a signature), within the ten days. In some other instances, K. Hovnanian determined through periodic reviews of site documents conducted by the Corporate Office that a PCIR form was missed. At the end of 2011, K. Hovnanian performed a self-assessment of its PCIR practices, after the Corporate Office reviewed every site in which construction activities started in 2011. Following a review of the results of the self-assessment of its PCIR practices, K. Hovnanian instituted a new internal procedure which provides an additional mechanism for the Corporate Office to ensure that a

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PCIR form has been completed and signed within the required ten day time period and prior to the initiation of construction activities. This new internal procedure will also timely notify the Corporate Office of the potential for the start of construction activities, which should eliminate any instances where construction starts prior to the proper permit being obtained.

The statistical information attached to this National Compliance Summary Report also notes that 1138 Quarterly Compliance Inspections and 1138 Quarterly Compliance Review forms were required during 2011. Of these totals, only 22 Quarterly Compliance Inspections were missed, and only 98 of the Quarterly Compliance Review Forms were either not performed or not signed within the time period set forth in the Consent Decree. As with the inspection reports and the PCIR forms discussed above, the overwhelming majority of the “missed” Quarterly Compliance Review forms were due to signatures not obtained until after the Consent Decree required seven day time period. It is important to note that K. Hovnanian’s National Stormwater Compliance Representative addressed the concern with the Quarterly Compliance Inspections and Quarterly Compliance Reviews when this concern was identified during the first half of 2011. The National Stormwater Compliance Representative implemented additional training (outside of the Consent Decree-required training program) with the Division Representatives to emphasize the importance of the Quarterly Compliance Inspection, as well as the timely preparation and execution of the Quarterly Compliance Review form. The additional training conducted resulted in significant improvements during the third and fourth quarters of 2011; namely, only 5 of the 22 total missed Quarterly Compliance Inspections occurred in the second half of 2011, and only 13 of the 98 total missed Quarterly Compliance Inspections occurred in the second half of 2011. Continued attention in 2012 to the Quarterly Compliance Inspections and Quarterly Compliance Reviews should result in sustained performance.

There were no instances in calendar year 2011 of a Division Wide Compliance Summary Report being prepared late. Internal controls instituted by K. Hovnanian helped to ensure this result.

K. Hovnanian had a properly trained Site Stormwater Compliance Representative at each of its Sites for 1111 of the 1116 Quarterly Compliance Inspections performed in 2011, for a

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compliance rate of over 99.5%. The five instances noted on the following National Compliance Summary Report of a failure to have a trained Site Stormwater Compliance Representative at a particular Site at the time of a Quarterly Compliance Inspection involved three individuals covering five sites located in Georgia and South Carolina. Once alerted to this condition, these individuals were immediately required to undergo the Consent Decree-required storm water training, which was then completed.

Please note that in recognition of the diligence in K. Hovnanian's NPDES self-inspection program, over 23,000 responsive actions were identified at its Sites in calendar year 2011, with almost 98% of those responsive actions completed on time. This percentage is roughly equivalent to the percentage of responsive actions completed on time for the period under review in 2010. K. Hovnanian continues to improve its self-inspection program, in part by working with state and local environmental officials who are charged with administering the NPDES permitting program within the states where K. Hovnanian has sites. At least one such official has recommended to K. Hovnanian that it record all responsive actions needed and undertaken at a Site, even if the responsive action was identified and/or performed on a day other than when the NPDES required periodic self-inspection was being performed. At present, K. Hovnanian representatives will generally perform maintenance of a stormwater best management practice ("BMP") when they are first found, and not wait to complete it during the NPDES-required site inspection. The current procedure means that many normal BMP maintenance activities, which would be recorded as "Responsive Actions" if identified during a NPDES-required site inspection, are performed without documentation. This particular local official recommended that K. Hovnanian record these BMP maintenance activities, to, in his view, demonstrate the care and commitment that a permittee such as K. Hovnanian has with respect to compliance with its NPDES permits.

After considering this recommendation, K. Hovnanian intends to implement such a program company-wide, which may greatly increase the total number of "Responsive Actions" recorded during calendar year 2012. However, this increase in the number of recorded "Responsive Actions" will not indicate any worsening of the BMPs found at any one site, but merely reflects a change in recordkeeping standards to be employed by K. Hovnanian.

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Lastly, by letter dated June 17, 2011, counsel for K. Hovnanian wrote to the U.S. Department of Justice (“DOJ”) contact listed in the Consent Decree to request, as set forth in Paragraph 69 of the Consent Decree, minor modifications to several of the forms included in the appendices of the Consent Decree. The letter of June 17, 2011, detailed the exact changes to the forms desired, as well as the reasons for those changes. Thereafter, a conference call was initiated by DOJ with several representatives of the U.S. Environmental Protection Agency (“EPA”). At the conclusion of the conference call, the EPA representatives agreed that the requested changes to the forms could be made, and the forms as revised could be used immediately. The EPA representatives also stated that a confirmatory letter would be sent to formally respond to the request. As of the date of this National Compliance Summary Report, a confirmatory letter has not been received.

II. Information for Categories of Self-Reported Stipulated Penalties

<u>17</u>	Number of days of discharge of pollutants from a Site to a water of the United States prior to obtaining coverage under an Applicable Permit
	<i>The name of the site from which there were discharges without a permit:</i>
	- White Oak Village Phase 2, White Oak Lane, Richmond Hill, GA 31322
	- Leeland Station, Section 5, Leeland Rd & Perth Drive, Fredericksburg, VA 22405
	- Leeland Station, Section 7, Leeland Road & Colemans Mill Drive, Fredericksburg, VA 22405
<u>24</u>	Number of failures to perform or, if performed, a material failure to document a required Pre-Construction Inspection and Review
<u>366</u>	Number of failures to perform or, if performed, a material failure to document a required Site Inspection
<u>16,003</u>	Total number of required Site Inspections
<u>120</u>	Number of failures to perform or, if performed, a material failure to document a required Quarterly Compliance Inspection and Review
<u>1,138</u>	Total number of required Quarterly Compliance Inspection and Reviews
<u>0</u>	Number of Division Wide Compliance Summary Report prepared 1-7 days after deadline

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0 Number of Division Wide Compliance Summary Report prepared 8-30 days after deadline

0 Number of Division Wide Compliance Summary Report prepared 31-90 days after deadline

5 Number of failures to have a Storm Water Trained Site Storm Water Compliance Representative at the time of a Quarterly Compliance Inspection and Review

III. Responsive Actions/SWP on Site

A. Responsive Actions

23,049 Total number of required Responsive Actions

506 Number of failures to complete Responsive Action within the time period required by the Applicable Permit or, if completed, a material failure to record the information.

B. SWP on Site

13 Number of failures to have, at the time of a Site Inspection, the SWP on site or its location posted

IV. Training Program

K. Hovnanian has developed a process that assures the time and effort put into “refresher training” for stormwater management compliance is effective and provides continual improvement and compliance. Rather than re-teach/review the entire stormwater training program during the refresher training, we have used a number of internal sources and our evaluation of compliance during the prior calendar year to determine the specific stormwater topics that we conclude will benefit from greater emphasis in the refresher training. We also monitor changes in the relevant law, as well as our discussions with regulators, to develop refresher stormwater training. In this manner, our refresher training can target specific stormwater topics which would most assist in continued compliance with the NPDES program.

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The process by which we develop our refresher training is as follows:

- Review companywide reports to identify any problematic issues
- Conduct a meeting with all Division Stormwater Representatives to gain their insight as to issues and subjects that they would like to see addressed in refresher training
- Identify any changes in the law or permitting procedures
- Develop an outline for the refresher training and review with our leadership group responsible for stormwater policies and procedures
- Complete the development of presentation materials and script

All designated stormwater personnel complete the refresher training in the first month of the calendar year. Stormwater personnel have commented that the refresher training is useful and does fill in gaps of knowledge.

In addition to the refresher training, K. Hovnanian has added a number of additional training efforts conducted throughout the year and outside of the required refresher training to keep a focus on ever improving compliance and to address any knowledge gaps as soon as they are identified. These additional training efforts include:

- Bimonthly teleconference calls with all Division Stormwater Representatives
- Periodic one-on-one teleconference calls with Division and Site Stormwater Representatives
- Periodic field visits by the National Stormwater Representative
- Webinars for all stormwater personnel
- Meetings with land development teams, design engineers and Stormwater Pollution Prevention Plan (SWPPP) providers to review Consent Decree requirements

In summary, the stormwater training program instituted as K. Hovnanian has evolved into a continual process and does not end with a single training event. Our training is planned, continually assessed for effectiveness, and when needed, improved to become more effective. We plan on continuing this process in the coming year.

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V. Signature and Certification

I certify under penalty of law, that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

DEAN POTTER
By: Dean Potter
National Storm Water
Compliance Representative

Dean Potter
Signature

2-24-12
Date

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VI. Distribution

This form shall be sent to the following:

Chief, Environmental Enforcement Section, U.S. Department of Justice
Lori Kier, Esquire, U.S. EPA Region III
Chuck Schadel, U.S. EPA Region III
Director, Water Enforcement Division, U.S. EPA
Caroline Burnett, Office of the General Counsel, District Department of the Environment
Principal Counsel, Office of the Attorney General, MD Department of the Environment
Chief, Enforcement Division, Compliance Program, MD Department of the Environment
Director, Department of Conservation and Recreation, Commonwealth of Virginia
Elizabeth Andrews, Assistant Attorney General, Commonwealth of Virginia
Michael Zeto, Chief Inspector, WV Department of Environmental Protection
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